

1-1 By: West S.B. No. 354  
1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 March 20, 2013, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; March 20, 2013, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12			X	
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to permitting electronic delivery of certain documents in  
1-18 a criminal case.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subsection (b), Section 3, Article 11.07, Code  
1-21 of Criminal Procedure, is amended to read as follows:

1-22 (b) An application for writ of habeas corpus filed after  
1-23 final conviction in a felony case, other than a case in which the  
1-24 death penalty is imposed, must be filed with the clerk of the court  
1-25 in which the conviction being challenged was obtained, and the  
1-26 clerk shall assign the application to that court. When the  
1-27 application is received by that court, a writ of habeas corpus,  
1-28 returnable to the Court of Criminal Appeals, shall issue by  
1-29 operation of law. The clerk of that court shall make appropriate  
1-30 notation thereof, assign to the case a file number (ancillary to  
1-31 that of the conviction being challenged), and forward a copy of the  
1-32 application by certified mail, return receipt requested, by secure  
1-33 electronic mail, or by personal service to the attorney  
1-34 representing the state in that court, who shall answer the  
1-35 application not later than the 15th day after the date the copy of  
1-36 the application is received. Matters alleged in the application  
1-37 not admitted by the state are deemed denied.

1-38 SECTION 2. Subsection (c), Section 6, Article 11.071, Code  
1-39 of Criminal Procedure, is amended to read as follows:

1-40 (c) The clerk of the convicting court shall:

1-41 (1) make an appropriate notation that a writ of habeas  
1-42 corpus was issued;

1-43 (2) assign to the case a file number that is ancillary  
1-44 to that of the conviction being challenged; and

1-45 (3) send a copy of the application by certified mail,  
1-46 return receipt requested, or by secure electronic mail to the  
1-47 attorney representing the state in that court.

1-48 SECTION 3. Subsection (b), Section 7, Article 11.072, Code  
1-49 of Criminal Procedure, is amended to read as follows:

1-50 (b) At the time an order is entered under this section, the  
1-51 clerk of the court shall immediately, by certified mail, return  
1-52 receipt requested, or by secure electronic mail, send a copy of the  
1-53 order to the applicant and to the state.

1-54 SECTION 4. Section 4, Article 38.41, Code of Criminal  
1-55 Procedure, is amended to read as follows:

1-56 Sec. 4. Not later than the 20th day before the trial begins  
1-57 in a proceeding in which a certificate of analysis under this  
1-58 article is to be introduced, the certificate must be filed with the  
1-59 clerk of the court and a copy must be provided by fax, secure  
1-60 electronic mail, hand delivery, or certified mail, return receipt  
1-61 requested, to the opposing party. The certificate is not

admissible under Section 1 if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the certificate with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the offering party.

SECTION 5. Section 4, Article 38.42, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. Not later than the 20th day before the trial begins in a proceeding in which a chain of custody affidavit under this article is to be introduced, the affidavit must be filed with the clerk of the court and a copy must be provided by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the opposing party. The affidavit is not admissible under Section 1 if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the affidavit with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the offering party.

SECTION 6. The changes in law made by this Act apply only to a legal document delivered, filed, or served on or after the effective date of this Act. A legal document delivered, filed, or served before the effective date of this Act is governed by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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